

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

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ESTATE OF SYLVILLE K. SMITH,	)	
by Personal Representative Mildred	)	
Haynes, Patrick Smith, and Mildred	)	
Haynes, on her own behalf,	)	
	)	
Plaintiff,	)	Case No. 17-CV-862
	)	
vs.	)	
	)	
CITY OF MILWAUKEE, WISCONSIN,	)	August 8, 2018
and DOMINIQUE HEAGGAN-BROWN,	)	
	)	
Defendants.	)	

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**TRANSCRIPT OF TELEPHONIC HEARING**

BEFORE THE HONORABLE LYNN ADELMAN

UNITED STATES DISTRICT JUDGE

Official Court Reporter:  
Richard Derrick Ehrlich, RMR, CRR  
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Proceedings recorded by stenotype.  
Transcript produced by computer-aided transcription.

## A P P E A R A N C E S

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1 THE COURT: I'm sorry.

2 Ms. Hamilton, we were going over the categories of  
3 information that Mr. Smokowicz identified in this file, and  
4 apparently there were eight categories, but in terms of the  
5 discovery requests, you're interested in items from four of  
6 the eight categories. Is that it?

7 MS. HAMILTON: Yes, Your Honor. If you have that  
8 in front of you, I --

9 THE COURT: All right. Tell me again -- you  
10 started out with the first category.

11 Go ahead. What's that?

12 MS. HAMILTON: Sure.

13 The first category is information relating to  
14 other sexual assault allegations against Heaggan-Brown, and  
15 this is information that is in the Internal Affairs file  
16 that the department considers when deciding how to  
17 investigate this case. So that's why it's important to us.

18 The second category is a chart that the department  
19 created in deciding how to discipline Heaggan-Brown. They  
20 created a chart of other officers who had committed other  
21 misconduct, and it appears they compared Heaggan-Brown's  
22 conduct to that other conduct to decide ultimately how to  
23 discipline Heaggan-Brown, and there the defendants have just  
24 redacted the officers' names in the chart, and the officers'  
25 names are critical to us examining Chief Flynn when we take

1 his deposition. We want to ask him, you know, in detail  
2 about these officers, their allegations against them, the  
3 discipline of them, what factors contributed to disciplining  
4 them. We can't do that if we don't know who the officers  
5 are. We also don't know if the officers are people who were  
6 partners or people who were there at the day of the  
7 shooting. We have no idea if we don't know the name. So  
8 that's the second category.

9 The third category is information about people who  
10 have been arrested by Heaggan-Brown in the year prior to the  
11 sexual assault, and that is right at the time period that  
12 Heaggan-Brown killed Sylville Smith. This is eight or nine  
13 months before the incident happened. Those arrestees are  
14 witnesses to -- or possibly witnesses to other misconduct by  
15 Heaggan-Brown. They might be rebuttal witnesses, they might  
16 be victims of excessive force themselves, we don't know  
17 because Defense counsel won't give us their names. So  
18 that's the third category.

19 And then the final category is information about  
20 people who Defense counsel says were not involved as  
21 witnesses to the sexual assault on the day following the  
22 shooting.

23 You know, Defense counsel says that these  
24 witnesses were not involved, but they're in the Internal  
25 Affairs file. So they were involved in some way. The

1 department talked to these people, investigated these  
2 people, in some way related to the sexual assault  
3 allegation. So we can't just take Defense counsel's word  
4 for it that these people are not related. They're in the  
5 file. There's no reason why we can't know who they are.  
6 There's no reason why we can't know what they sent.

7 Defense counsel just didn't redact their names,  
8 they redacted the statement that they made. They could've  
9 made statements about Heaggan-Brown, they could've made  
10 statements about the sexual assault victim here, we have no  
11 idea because all the information has been redacted.

12 THE COURT: All right. Based on all the papers  
13 that have been filed in the argument today, as to those four  
14 categories, those four requests, I'm going to grant the  
15 plaintiff's motion for discovery.

16 I think that, as we all know, the discovery  
17 standards are broad, and it seems to me that they made a  
18 pretty strong argument that this could lead to information  
19 that's relevant. And I also emphasize that there is a  
20 protective order, so none of this stuff is going to be  
21 disclosed, and it's a limited amount of the material that  
22 Mr. Smokowicz has identified. So plaintiff's motion is  
23 granted to that extent.

24 MS. HAMILTON: Thank you, Your Honor.

25 THE COURT: All right. Anything else?

1 MR. SMOKOWICZ: Judge, just a heads-up. The  
2 paralegal who knows everything about un-redacting things is  
3 out a few days here this week, so it may take a couple days  
4 to get this out to them.

5 THE COURT: Okay. All right.

6 Do you understand that, Ms. Hamilton?

7 MS. HAMILTON: Yes.

8 THE COURT: All right. Very good. Thank you.

9 MR. SMOKOWICZ: Thank you, Judge.

10 THE COURT: Okay.

11 MS. HAMILTON: Thank you, Judge.

12 (Hearing concluded.)  
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## C E R T I F I C A T E

I, Richard D. Ehrlich, a Registered Merit Reporter and Certified Realtime Reporter, certify that the foregoing is a true, complete, and accurate transcript of the proceedings ordered to be transcribed in the above-entitled case before the Honorable Lynn Adelman, in Milwaukee, Wisconsin, on August 8, 2018.

s/Richard D. Ehrlich August 28, 2018

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Richard D. Ehrlich, Official Court Reporter